

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**SHERREE SALTER, VALISSA BOYKIN,
GWENDOLYN WILSON AND NICKEYA
BETTS,**

Plaintiffs,

v.

**SHOE SHOW, INC. and ANDRE
JONES,**

Defendants.

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

v.

**THE SHOE SHOW OF ROCKY MOUNT,
INC.,**

Defendant.

**CIVIL ACTION NUMBER:
03-863-WS-B**

**CIVIL ACTION NUMBER:
1:04-CV-00494-WS-B**

DEFENDANT’S RESPONSE TO MOTION TO CONSOLIDATE

The Shoe Show of Rocky Mount, Inc. (“Shoe Show” or “Defendant”), Defendant in the above-styled action, responds to Plaintiffs’ Motion to Consolidate as follows:

1. Defendant submits that, conditioned upon the entry of a new scheduling order and the preservation of certain issues addressed more fully below, it does not oppose Plaintiffs’ Motion to Consolidate this case with Equal Employment Opportunity Commission v. The Shoe Show of Rocky Mount, Inc., Case No: 1:04-CV-00494-WS-B, **for purposes of discovery only.**

2. Defendant specifically reserves the right, after necessary discovery, to evaluate whether the claims asserted by the EEOC would be properly tried with the claims of the current Plaintiffs, subject of course to any dispositive motions. Defendant also specifically reserves the right to evaluate whether all of the current Plaintiffs' claims should be tried together, again subject to any dispositive motions.

3. Without entry of a new scheduling order, Defendant opposes the proposed consolidation. Defendant has heretofore been hindered in its efforts to proceed with discovery and depositions in this case by Plaintiffs' four-month delay in properly responding to Defendant's initial paper discovery. The parties are currently faced with the possibility that they may be unable to complete necessary discovery and depositions in this case within the already extended period allowed for discovery.

4. The addition of a new party, which would require additional discovery and depositions on issues relevant to the EEOC's investigation, handling of certain charges, and other procedural matters, would make working within the current discovery schedule impossible. Not only would the consolidation require more depositions and discovery on additional issues, but also it would further complicate scheduling matters because additional schedules will need to be accommodated in setting any dates.

5. Furthermore, should the EEOC be added as a party, it may not be prepared to proceed with depositions and may want an opportunity to conduct paper discovery before the taking of any depositions.

6. Finally, the parties are currently stymied with regard to proceeding with discovery and depositions due to the current uncertainty regarding whether the EEOC will be added as a party to this action.

7. Defendant further conditions its agreement to the proposed consolidation on the preservation of all of its defenses against the EEOC and against the current Plaintiffs.

WHEREFORE, Defendant states that, conditioned on the above-listed issues, it does not oppose Plaintiffs' proposed consolidation.

Respectfully Submitted,

s/Sally Broatch Waudby
Sally Broatch Waudby ASB-4704-W84S

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CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Respectfully submitted,

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